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HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Libyan Arab Jamahiriya

1. The Committee considered the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1) at its 1712th and 1713th meetings, held on 27 October 1998, and adopted the following concluding observations at its 1720th meeting, held on 2 November 1998.

A. Introduction

2. The Committee welcomes the timely report submitted by the Government of the Libyan Arab Jamahiriya and the willingness of the State party to have a continued dialogue with the Committee. The Committee notes with regret that the report, while providing information on legal norms and enactments governing the obligations set out in the Covenant, lacks information on the implementation of the Covenant in practice. The Committee notes that the third periodic report of the State party does not address the concerns expressed by the Committee in its concluding observations on the second report of the Libyan Arab Jamahiriya and does not provide the data requested on that occasion. It however notes the State party's undertaking to submit additional written information in response to the Committee's questions which remained unanswered so far.

B. Factors and difficulties

3. The Committee notes that the embargo on air travel, imposed by the Security Council on the Libyan Arab Jamahiriya since April 1992, is considered by the Libyan Government as creating economic difficulties and affecting the implementation of certain provisions of the Covenant.

C. Positive aspects

4. The Committee welcomes the principle of direct applicability of the Covenant and the possibility of invoking it directly before the courts.

5. The Committee welcomes the concrete efforts made by the State party to enact legislation reducing inequalities between men and women in the field of personal status. The Committee also welcomes the measures taken to improve the situation of women in public life and civil society, particularly in the workplace and in access to education.

D. Principal subjects of concern and recommendations

6. The Committee is concerned by the lack of clarity about the legal status of the Covenant, in particular about the hierarchy between the Covenant, the Great Green Document on Human Rights and the Constitutional Proclamation. Neither in examining the report of the State party nor during the dialogue with the delegation could the Committee gain a clear understanding of how conflicts between the Covenant and domestic law are solved or of the role of the Supreme Court in this respect.

7. The Committee is deeply troubled by the allegations, from various reliable sources, of extrajudicial, arbitrary or summary executions perpetrated by state agents as well as of a high incidence of arbitrary arrest and detention, including long detention without trial. The Committee expresses its regret at the lack of transparency on the part of the State Party in responding to these concerns. The Committee

recommends that all allegations mentioned above be fully, publicly and impartially investigated, that the results of such investigations be published, that the perpetrators of those acts be brought to justice and that the victims and their families be duly compensated. The Committee urges the State party to include in its next report information, including names and statistics, about disappeared persons, cases of extrajudicial, arbitrary or summary executions and about persons kept under detention without charge, in situations of indefinite detention without trial or following acquittal by courts.

8. The Committee is particularly concerned about the excessively vague wording of article 4 of the Promotion of Freedom Act, which stipulates that the death penalty may be imposed "on a person whose life endangers or corrupts society" and similar wording in the Great Green Document, thus leading to the imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including political and economic offences, in violation of article 6, par. 2., of the Covenant. Furthermore, the Committee deplores that retribution is legally accepted as a ground for the imposition of death penalty. In its next report, the State party is asked to furnish information on the number of executions which have taken place in the last ten years, the type of offence for which the death penalty has been imposed, and the manner in which the execution has been carried out. The Committee recommends that urgent steps be taken to reduce the number and type of crimes entailing capital punishment and to repeal all provisions incompatible with article 6 of the Covenant.

9. The Committee is concerned at the high rate of maternal mortality and requests the State party to provide information in its next report on measures taken to reduce it.

10. The Committee is deeply concerned over persistent allegations of systematic use of torture and cruel, inhuman or degrading treatment or punishment. The Committee takes positive note of the data offered by the delegation about investigations carried out in some cases and of punishment of those responsible for such acts, as well as of the

indemnity given to victims. The Committee recommends that the State party enforce a more efficient system for monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. It urges the State party to ensure that all cases of alleged torture or ill-treatment be investigated by an impartial body, that the results of such investigations be published and that officials responsible for torture and ill-treatment be prosecuted and, if convicted, severely punished. The State party is asked to include in its next report information on steps taken in this respect as well as on prison conditions. The Committee also recommends that training courses on human rights be conducted for law enforcement personnel.

11. Furthermore, the Committee recalls that flogging, which is recognized in the Libyan Arab Jamahiriya as a penalty for criminal offences, is incompatible with article 7 of the Covenant. The imposition of such punishment should cease immediately and all laws and regulations providing for its imposition should be repealed without delay. Amputation, although not used in practice, according to the Delegation, should be formally abolished.

12. The Committee stresses with deep concern that the law enacted in 1997 known as the "Charter of Honour", which authorizes collective punishment for those found guilty of collective crimes (including "obstructing the people's authority..., damaging public and private institutions"), violates several articles of the Covenant, including articles 7, 9 and 16. It recommends that the application of this law be suspended without delay and that steps be taken to repeal it.

13. The Committee reiterates its concern about the excessive duration of remand in custody and undue prolongation of pre-trial detention and urges that all necessary measures be taken to reduce the length of such detention and to improve judicial oversight.

14. The Committee considers that serious doubts arise as to the independence of the judiciary and the liberty of advocates to exercise their

profession freely, without being in the employment of the State, and to provide legal aid services. The Committee recommends that measures be taken to ensure full compliance with article 14 of the Covenant as well as with the United Nations Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers. Training in human rights law should be given to all judges and members of the legal profession. In its next report, the State party is requested to provide detailed information on the jurisdiction, composition and activities of the Revolutionary Security Courts, as well as on the organisation of the legal profession.

15. The Committee expresses its deep concern about the numerous restrictions, in law and in practice, on the right to freedom of expression, and in particular on the right to express opposition to or criticism of the Government, of the established political, social and economic system and of the cultural values prevailing in the Libyan Arab Jamahiriya. The Committee urges the State party to undertake a truly critical analysis of restrictions to articles 18, 19, 21, 22 and 25 and their effect in practice, with a view to fulfilling its obligations under those articles. More specifically, the Committee stresses that article 25 provides for genuine elections with secret ballot and that the State party must comply with this requirement. It recommends that the application of provisions of the Publication Act (1972) which are incompatible with article 19, of the Covenant, should be immediately suspended and that steps should be taken for its revision.

16. Notwithstanding the statement contained in the State party's report and reiterated by the delegation that "all Libyans are Muslims by birth and heredity", the Committee stresses that it is incumbent on the State party to ensure that all individuals subject to its jurisdiction enjoy their right to freedom of thought, conscience and religion under article 18 of the Covenant.

17. The Committee notes with concern that, in spite of the Government's efforts, inequality between men and women persists in a number of areas, such as inheritance, freedom of movement, acquisition and transmission

of nationality and divorce. It was also concerned to receive from the Delegation information that polygamy may still be practised under certain conditions. The Committee regrets that the law still does not provide adequate protection to women in respect of domestic violence and rape. While recognizing the progress achieved as far as equality in the workplace is concerned, the Committee emphasizes that much remains to be done to reach full equality, including equal wages. The Committee recommends that the State party intensify its efforts to guarantee full equal enjoyment by men and women of all their human rights.

18. The Committee expresses its concern over the persistence of discrimination in law and practice against children born out of wedlock, which is incompatible with articles 24 and 26 of the Covenant. It recommends that attention be paid to the prompt rectification of this situation with regard to all rights to which children are entitled.

19. The Committee takes note with concern of the statement contained in the State party's report and reiterated by the delegation that there are no ethnic, religious or cultural minorities in the Libyan Arab Jamahiriya. It draws the attention of the State party to its General Comment No. 23 (50), which lays down various objective elements to establish the existence of minorities in a State party. The Committee regrets the lack of information on the protection of persons belonging to those minorities and requests that specific information on minorities be included in the State party's next report.

20. The Committee observes that although the Libyan Arab Jamahiriya became a party to the Optional Protocol in 1989, only two communications and three contact letters have been addressed to the Committee. This may suggest that the people living in the State party are not aware of their right to use such mechanism. The Committee urges the State party to take urgent steps to disseminate the Covenant and the Optional Protocol to the public at large, to persons in detention and to the legal community.

21. Noting with regret that no information was submitted by Libyan non-governmental organisations on the Government's report, the Committee

regrets that it did not receive satisfactory information on the existence and functioning of non-governmental human rights organisations in the Libyan Arab Jamahiriya. Urgent steps should be taken by the State party to allow the free operation of independent non-governmental human rights organisations.

22. The Committee fixes the date for the submission of the Libyan Arab Jamahiriya's fourth periodic report to be October 2002. It recommends that the next report should contain material which addresses all concerns and recommendations expressed in the present concluding observations. The Committee further recommends that the text of the State party's third periodic report and these concluding observations be published and widely disseminated among the public in all parts of the Libyan Arab Jamahiriya.